

Fee Paid

Donald D. Jones
Alberta Rose Jones
1144 Tangerine Way
Sunnyvale, Ca 94087
408-449-3041

FILED

2007 NOV -9 P 4:35

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

ORIGINAL

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Kelkris Associates Inc. DBA Credit Bureau
Associates, et. al.,

Plaintiffs

v.

Donald Jones and Alberta Rose Jones,

Defendants.

CASE NO. 07-04421 JW

NOTICE OF APPEAL

DEMAND FOR JURY TRIAL FRCP 38

(b)

NOTICE OF APPEAL

Donald D. Jones and Alberta Rose Jones appeal all orders in this case.

Attached is the last order issued by the Court dated October 12, 2007 but not mailed to Alberta Rose Jones until October 15, 2007. A color copy of the metered stamped envelope is so referenced as proof. The Jones' motion to transfer was not addressed by the court. The court failed to issue a second remand order to the Superior Court of California as required by 28 United States Code. The first order in this case is also attached. A complete copy of the docket is attached. There were two orders in this case.

Dated: November 9, 2007 Donald Jones and Alberta Rose Jones

Not on docket attached as well.

NOTICE OF APPEAL- 1

Total pages
8 + 2 + 3 + 2 + 1 = 16 pages

(scanned)

San Jose Division - called "order denying second removal"

NO. C 07-04421 JW

ORDER DENYING "SECOND REMOVAL"

Kelkris Associates, Inc., et al.,

Plaintiffs,

v.

Alberta Rose Jones, et al.,

Defendants.

Superior Court of California

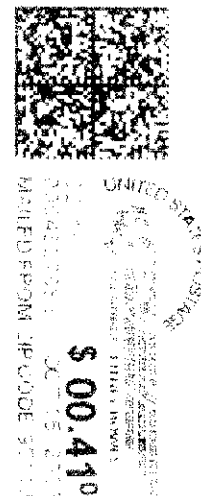
pasted

has case # 07-04221 JW typed on it.

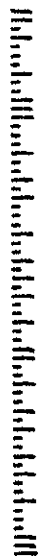
United States District Court
For the Northern District of California

OFFICE OF THE CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
280 SOUTH FIRST STREET, ROOM 2112
SAN JOSE, CALIFORNIA 95113-3095
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

Alberta Rose Jones
1144 Tangerine Way
Sunnyvale, CA 94087



94087+2434



RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

OCT 12 2007

RECEIVED

DISTRICT COURT
OF CALIFORNIA

07-04421 JW

ORDER DENYING "SECOND
REMOVAL"

Jones ("Jones") from the Superior Court
the Honorable William C. Harrison,
filed motions to remand this case back
Item Nos. 19-21; 22-35.)
denying Jones's motions and remanded
because, among other reasons, the

(Docket No. 36)

motion of "Second Removal." (Docket
as regarding this matter.

James Ware

JAMES WARE
United States District Judge

ORIGINAL FILED

OCT 12 2007

RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Kelkris Associates, Inc., et al.,

NO. C 07-04421 JW

Plaintiffs,

**ORDER DENYING "SECOND
REMOVAL"**

v.

Alberta Rose Jones, et al.,

Defendants.

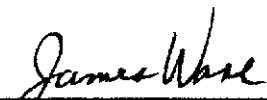
This case was removed by Defendant Alberta Rose Jones ("Jones") from the Superior Court of the State of California. Plaintiff Kelkris Associates, Inc., the Honorable William C. Harrison, California Attorney General Edmund G. Brown, and others, filed motions to remand this case back to the Superior Court of the State of California. (See Docket Item Nos. 19-21; 22-35.)

On September 29, 2007, the Court issued an Order denying Jones's motions and remanded the case back to the Superior Court of the State of California because, among other reasons, the

~~Court lacks subject matter jurisdiction over the case. (See Docket Item No. 36.)~~

Accordingly, the Court denies Defendant's present motion of "Second Removal." (Docket Item No. 37.) The Court will not entertain additional motions regarding this matter.

Dated: October 12, 2007


JAMES WARE
United States District Judge

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2007 OCT 16 PM 3:37

Alberta Rose Jones
1144 Tangerine Way
Sunnyvale, Ca 94087

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Kelkris Associates Inc. DBA Credit Bureau
Associates, et. al.,

Plaintiffs

v.

Donald Jones and Alberta Rose Jones,

Defendants.

) CASE NO. 07-04421 JW

)
) Judicial Misconduct and Disability Judge James
) Ware

) DEMAND FOR JURY TRIAL

) FRCP 38 (b)

) Time: 0900 am

) Date: December 3, 2007

) Place: Courtroom 8, Fourth Floor

JUDICIAL MISCONDUCT AND DISABILITY
OF JUDGE JAMES WARE

I, Alberta Rose Jones, am complaining of not only judicial misconduct by Judge James Ware but of having a disability. I am filing a Judicial Misconduct and Disability Complaint Form. I have judicially noticed as part of this Notice of Motion a copy of two articles regarding Judge James Ware. Judge James Ware was never medically evaluated for his lying regarding have an imaginary brother named "Virgil". I just received two orders from Judge James Ware, which are false and misleading. In addition in the matter of Kelkris Associates v. Jones, a Rule 7 Rule 7.1. Disclosure Statement was filed. The Rule 7.1(a) Statement was never addressed by James Ware as required by law. The statement filed by Kelkris and Associates fails to follow Rule 7.1(a). Did Judge James Ware address this fact "no." This is just one of the many judicial forms of misconduct that happens under Judge James Ware. He repeatedly lies about what is taking place in a case. He repeatedly fails to tell the truth. I BELIEVE HE IS DISABLED PER PSYCHIATRISTS WHO HAVE WRITTEN ABOUT HIM.

Per University of California, San Francisco, psychiatry professor, Dr. Paul Ekman, who has studied lying for over three decades. Ekman looked at Judge James Ware case of lying as well as Halford Fairchild, psychology professor. Another psychologist who studies lying is Leonard Saxe. Saxe states as follows: "The stories that were repeated such as the one by Judge James Ware, over time take on a reality and you do not realize what the original truth was."

"At the other end of the spectrum, a person may lie because psychologically he cannot acknowledge the truth — even to himself."

"Their Knowledge of How Well they can lie. People who are good at it are more likely to lie." Quoted word for word from the article "Why People Lie" in which Judge James Ware is being written about.

Alberta Jones

Alberta Rose Jones
1144 Tangerine Way
Sunnyvale, Ca 94087
408-449-3041

RECEIVED

2007 OCT 16 PM 3:38

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIF. S.J.

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

Kelkris Associates Inc. DBA Credit Bureau
Associates, et. al.,

Plaintiffs

v.

Donald Jones and Alberta Rose Jones,

Defendants.

) CASE NO. 07-04421 JW

) JUDICIAL NOTICES: Article about Judge
) James Ware "Why People Lie", Article about
) Judge James Ware "Federal Judge Reprimand
) for Telling Lies, Second Removal Filed, Minute
) Orders August 28, 2007 and Oct 2, 2007
) FCM093334 Bret Yaple - fraud not attorney of
) record, Terry Duree paperwork filed on Oct 7
) 2007

) DEMAND FOR JURY TRIAL FRCP 38 (b)

) Time: 0900 am
) Date: December 3, 2007
) Place: Courtroom 8 , Fourth Floor

**JUDICIAL NOTICES: Article about Judge James Ware "Why People Lie",
Article about Judge James Ware "Federal Judge Reprimand for Telling Lies,
Second Removal Filed, Minute Orders August 28, 2007 and Oct 2, 2007
FCM093334 Bret Yaple is appearing not Terry Duree No record Bret Yaple
has filed any papers in the case - fraud not attorney of record, Terry Duree
paperwork filed not Bret Yaple who appeared**

FEDERAL RULES OF EVIDENCE - JUDICIAL NOTICE

Papers filed under Federal Rules of Evidence (FRE) 201 pertaining to Judicial Notices.
Admissions made in the course of litigation are generally treated as "judicial admissions", i.e.,
they are more than mere evidence of the facts admitted - they conclusively establish the matter.
To be treated as a judicial admission, a statement must: be made in a judicial proceeding, be
deliberate, clear and unequivocal, concern a fact essential to the theory of recovery, and be such
that giving it conclusive effects meets with public policy (Heritage Bank v. Redcom
Laboratories, Inc., 250 F3d 319.)

**U.S. District Court
California Northern District (San Jose)
CIVIL DOCKET FOR CASE #: 5:07-cv-04421-JW**

Kelkris Associates, Inc. v. Jones

Assigned to: Hon. James Ware

Referred to: Magistrate Judge Patricia V. Trumbull

Demand: \$1,000,000

Case in other court: Superior Court County of Solano, FCM093334

Cause: 28:1441 Petition for Removal

Date Filed: 08/27/2007

Date Terminated: 09/21/2007

Jury Demand: Plaintiff

Nature of Suit: 440 Civil Rights: Other

Jurisdiction: U.S. Government Defendant

Plaintiff

Kelkris Associates, Inc.
doing business as
Credit Bureau Associates

represented by **Ronald Hubert Sargis**
Hefner Stark & Marios
2150 River Plaza Drive
Ste 450
Sacramento, CA 95833
(916) 925-6620
Email: rsargis@hsmlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Terry Alan Duree
Terry A Duree, Inc.
622 Jackson St
Fairfield, CA 94533
(707) 422-8933
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Alberta Rose Jones

represented by **Alberta Rose Jones**
1144 Tangerine Way
Sunnyvale, CA 94087
408-449-3041
PRO SE

Defendant

Kathryn A Parson

represented by **Ronald Hubert Sargis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Terry A Duree

represented by **Ronald Hubert Sargis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**Michael Matthews****Defendant****Moes Process Serving****Defendant****Eva E Williams****Defendant****Wendy A. Getty****Defendant****Patricia Coleman****Defendant****Joan Crawford****Defendant****Karl Phillips****Defendant****William C Harrison***Judge of the Superior Court*represented by **Tom Blake**

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Fax: 415-703-5480
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Email: tom.blake@doj.ca.gov
ATTORNEY TO BE NOTICED

Defendant

Edmund G. Brown, Jr.
Attorney General of the State of California

represented by **Tom Blake**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Troy Bentley Overton
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas A. Blake
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Barbara Boxer

Defendant

United States of America

Defendant

Linda G. Ashcraft

Defendant

Bret Yapple

represented by **Ronald Hubert Sargis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Miscellaneous

Donald D. Jones

represented by **Donald D. Jones**
PRO SE

| Date Filed | # | Docket Text |
|-------------------|-----------|--|
| 10/12/2007 | <u>55</u> | ORDER denying "second removal" by Judge James Ware denying [48]Motion to Transfer Case (jwlc2, COURT STAFF) (Filed on 10/12/2007) (Entered: 10/12/2007) |
| 10/12/2007 | 54 | CERTIFICATE OF SERVICE by Donald D. Jones, Alberta Rose Jones re [53] Memorandum in Support (cv, COURT STAFF) (Filed on 10/12/2007) (Entered: 10/12/2007) |
| 10/12/2007 | 53 | MEMORANDUM in Support re [48] MOTION to Transfer Case filed byDonald D. Jones, Alberta Rose Jones. (Related document(s)[48]) (cv, COURT STAFF) (Filed on 10/12/2007) (Entered: 10/12/2007) |
| 10/11/2007 | 52 | CERTIFICATE OF SERVICE by Alberta Rose Jones re [49] Declaration in Support, [50] Declaration in Support, [51] Request for Judicial Notice, [48] MOTION to Transfer Case (cv, COURT STAFF) (Filed on 10/11/2007) (Entered: 10/11/2007) |
| 10/11/2007 | 51 | Judicial Notice OF movie stars eyes' being BLUE, GREEN, HAZEL compared to my GREEN/BROWN/HAZEL Eye Color filed by Alberta Rose Jones. (cv, COURT |

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| | | STAFF) (Filed on 10/11/2007) (Entered: 10/11/2007) |
| 10/11/2007 | 50 | SWORN Declaration of Donald D. Jones in Support of [48] MOTION to Transfer Case, 37 SECOND Removal, filed by Donald D. Jones. (Related document(s)[48], 37) (cv, COURT STAFF) (Filed on 10/11/2007) (Entered: 10/11/2007) |
| 10/11/2007 | 49 | SWORN Declaration of Alberta Rose Josephine Jones in Support of [48] MOTION to Transfer Case, 37 second Removal, filed by Alberta Rose Jones. (Related document(s) [48], 37) (cv, COURT STAFF) (Filed on 10/11/2007) (Entered: 10/11/2007) |
| 10/11/2007 | 48 | MOTION to Transfer Case No. FCM093334 to U.S. District Court Northern District of California (San Jose Division) filed by Donald D. Jones, Kelkris Associates, Inc.. Motion Hearing set for 12/3/2007 09:00 AM in Courtroom 8, 4th Floor, San Jose. (cv, COURT STAFF) (Filed on 10/11/2007) (Entered: 10/11/2007) |
| 10/05/2007 | 47 | Receipt of acknowledgment from Superior Court County of Solano Civil Division.of documents received on 9/28/07. (cv, COURT STAFF) (Filed on 10/5/2007) (Entered: 10/05/2007) |
| 10/04/2007 | 46 | JUDICIAL NOTICE cases supporting removal and receipt of Notice in State Court by Alberta Rose Jones (cv, COURT STAFF) (Filed on 10/4/2007) (Entered: 10/04/2007) |
| 10/04/2007 | 45 | CERTIFICATE OF SERVICE by Alberta Rose Jones re [42] Declaration in Support, [43] Declaration in Support, [44] Notice (Other) <i>Judicial of receipt of 2nd notice of removal by the State Court</i> (cv, COURT STAFF) (Filed on 10/4/2007) (Entered: 10/04/2007) |
| 10/04/2007 | 44 | JUDICIAL NOTICE by Alberta Rose Jones of receipt of 2nd notice of removal by the State Court (cv, COURT STAFF) (Filed on 10/4/2007) (Entered: 10/04/2007) |
| 10/04/2007 | 43 | Declaration of Donald D. Jones re36 Order on Motion to Remand, NOT being acknowledged in remand order or being sent copies of remand order. filed byDonald D. Jones. (Related document(s)36) (cv, COURT STAFF) (Filed on 10/4/2007) (Entered: 10/04/2007) |
| 10/04/2007 | 42 | Declaration of Alberta Rose Josephine Jones regarding Judge James Ware NOT reviewing understanding Federal Laws (demand for jury trial) filed byMichael Matthews. (cv, COURT STAFF) (Filed on 10/4/2007) (Entered: 10/04/2007) |
| 10/01/2007 | 40 | PROOF OF SERVICE by Donald D. Jones, Alberta Rose Jones re [39] OF SECOND AMENDED COMPLAINT; (Other), Notice TO Superior Court (cv, COURT STAFF) (Filed on 10/1/2007) Modified on 10/2/2007 (cv, COURT STAFF). (Entered: 10/02/2007) |
| 10/01/2007 | 39 | NOTICE by Donald D. Jones, Alberta Rose Jones re 37 second Amended Superior Court of California County of Solano as well as points and authorities by the superior court regarding the Superior Court being ousted out of court second Notice of Removal improper venue, memorandum in support thereof. (cv, COURT STAFF) (Filed on 10/1/2007) (Entered: 10/02/2007) |
| 10/01/2007 | 38 | CERTIFICATE OF SERVICE by Donald D. Jones, Alberta Rose Jones re 37 Amended Notice of Removal (cv, COURT STAFF) (Filed on 10/1/2007) Additional attachment(s) added on 10/3/2007 (cv, COURT STAFF). (Entered: 10/02/2007) |
| 10/01/2007 | 37 | NOTICE OF SECOND REMOVAL and class action (jury trial demand) against Kelkris Associates, Inc. Filed by Donald D. Jones, Alberta Rose Jones. (cv, COURT STAFF) (Filed on 10/1/2007) Additional attachment(s) added on 10/3/2007 (cv, COURT STAFF). Modified text on 10/3/2007,(clerks error) misnamed document, correction is |

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|------------|-----------|--|
| | | Notice, NOT Amended Notice of Removal (cv, COURT STAFF). (Entered: 10/02/2007) |
| 09/24/2007 | <u>41</u> | CLERK'S mailed CERTIFIED copy of docket sheet and CERTIFIED copy of remand order to Superior Court of California County of Solano - Civil Division. *** The efiled document noted here was lost due to a failure of this court's efilng system.*** (cv, COURT STAFF) (Filed on 9/24/2007) Additional attachment(s) added on 10/3/2007 (cv, COURT STAFF). (Entered: 10/02/2007) |
| 09/21/2007 | <u>36</u> | ORDER by Judge James Ware denying [29] Motion to Relate Case; denying [31] Motion to Stay; denying [17] Motion to Dismiss for Lack of Jurisdiction; granting <u>19</u> Motion to Remand; granting <u>22</u> Motion for Joinder; granting <u>23</u> Motion to Remand (jwlc2, COURT STAFF) (Filed on 9/21/2007) (Entered: 09/21/2007) |
| 09/19/2007 | | Set/Reset Deadlines as to <u>23</u> MOTION to Remand. Motion Hearing set for 12/3/2007 09:00 AM in Courtroom 8, 4th Floor, San Jose. (cv, COURT STAFF) (Filed on 9/19/2007) (Entered: 09/19/2007) |
| 09/19/2007 | <u>35</u> | CERTIFICATE OF SERVICE by Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree, Bret Yapple re <u>33</u> Certificate of Interested Entities, <u>34</u> Notice (Other), <u>32</u> Notice (Other), Notice (Other) (Sargis, Ronald) (Filed on 9/19/2007) (Entered: 09/19/2007) |
| 09/19/2007 | <u>34</u> | Corporate Disclosure Statement by Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree, Bret Yapple (Sargis, Ronald) (Filed on 9/19/2007) Modified on 9/19/2007 (cv, COURT STAFF). (Entered: 09/19/2007) |
| 09/19/2007 | <u>33</u> | Certificate of Interested Entities by Ronald Hubert Sargis (Sargis, Ronald) (Filed on 9/19/2007) (Entered: 09/19/2007) |
| 09/19/2007 | <u>32</u> | RE-NOTICE of motion hearing by Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree, Bret Yapple re <u>23</u> MOTION to Remand or in the alternative to dismiss (Sargis, Ronald) (Filed on 9/19/2007) Modified on 9/19/2007,(counsel used incorrect event correct event is re-notice of motion hearing, Not Notice)(cv, COURT STAFF). Modified on 9/19/2007,(counsel failed to properly link to motion) (cv, COURT STAFF). (Entered: 09/19/2007) |
| 09/18/2007 | <u>31</u> | MOTION to Stay proceedings in this case in both State Court and United States District Court filed by Alberta Rose Jones. (cv, COURT STAFF) (Filed on 9/18/2007) (Entered: 09/18/2007) |
| 09/17/2007 | | Set/Reset Deadlines as to <u>26</u> MOTION for Hearing on motion to remand, <u>23</u> MOTION to Remand. Motion Hearing set for 10/29/2007 09:00 AM in Courtroom 8, 4th Floor, San Jose. (cv, COURT STAFF) (Filed on 9/17/2007) (Entered: 09/18/2007) |
| 09/17/2007 | <u>28</u> | Proposed Order re <u>23</u> MOTION to Remand by Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree, Bret Yapple. (Sargis, Ronald) (Filed on 9/17/2007) (Entered: 09/17/2007) |
| 09/17/2007 | <u>27</u> | CERTIFICATE OF SERVICE by Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree, Bret Yapple re <u>23</u> <u>24</u> <u>25</u> <u>26</u> MOTION to Remand (Sargis, Ronald) (Filed on 9/17/2007) Modified on 9/18/2007 (cv, COURT STAFF). (Entered: 09/17/2007) |
| 09/17/2007 | <u>26</u> | RE-NOTICE OF Motion for hearing re: <u>23</u> MOTION to remand or in the alternative, to MOTION to dismiss by Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree, Bret Yapple re <u>23</u> (Sargis, Ronald) (Filed on 9/17/2007) Modified text on 9/18/2007, (counsel failed to select multiple motions). (cv, COURT STAFF). Modified on 9/18/2007 (cv, COURT STAFF). Modified on 9/19/2007,(counsel used incorrect event, correct event is re-notice of motion hearing, not motion for hearing. (cv, COURT |

| | | |
|------------|-----------|--|
| | | STAFF). (Entered: 09/17/2007) |
| 09/17/2007 | <u>25</u> | Declaration of Terry A. Duree in Support of <u>23</u> MOTION to Remand filed by Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree, Bret Yapple. (Related document(s) <u>23</u>) (Sargis, Ronald) (Filed on 9/17/2007) (Entered: 09/17/2007) |
| 09/17/2007 | <u>24</u> | MEMORANDUM in Support re <u>23</u> MOTION to Remand filed by Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree, Bret Yapple. (Related document(s) <u>23</u>) (Sargis, Ronald) (Filed on 9/17/2007) (Entered: 09/17/2007) |
| 09/17/2007 | <u>23</u> | MOTION to Remand or in the alternative, MOTION to dismiss filed by Bret Yapple, Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree. Motion Hearing set for 10/29/2007 09:00 AM in Courtroom 8, 4th Floor, San Jose. (Sargis, Ronald) (Filed on 9/17/2007) Modified on 9/18/2007(counsel failed to properly link to motion) (cv, COURT STAFF). (Entered: 09/17/2007) |
| 09/14/2007 | <u>30</u> | Request for Judicial Notice re [29] MOTION to Relate Case filed by Alberta Rose Jones. (Related document(s)[29]) (cv, COURT STAFF) (Filed on 9/14/2007) (Entered: 09/18/2007) |
| 09/14/2007 | <u>29</u> | MOTION to Relate Cases C04-2951 JW, C04-2779 JW, C04-4811 JW. filed by Alberta Rose Jones. (cv, COURT STAFF) (Filed on 9/14/2007) (Entered: 09/18/2007) |
| 09/14/2007 | | Set/Reset Deadlines as to <u>19</u> MOTION to Remand or, in the alternative, MOTION to dismiss for failure to state a claim. Motion Hearing set for 12/3/2007 09:00 AM in Courtroom 8, 4th Floor, San Jose. (cv, COURT STAFF) (Filed on 9/14/2007) (Entered: 09/18/2007) |
| 09/14/2007 | <u>22</u> | MOTION for Joinder <i>By Attorney General Edmund G. Brown Jr. In the Hon. William C. Harrison's 19 Notice of Motion and Motion to Remand or, In the Alternative, Motion to Dismiss; Points and Authorities</i> by William C Harrison, Edmund G. Brown, Jr. (Blake, Thomas) (Filed on 9/14/2007) Modified on 9/18/2007(counsel failed to properly link to motion) (cv, COURT STAFF). Modified on 9/19/2007 (cv, COURT STAFF). (Entered: 09/14/2007) |
| 09/14/2007 | <u>21</u> | Proposed Order <i>Granting Defendant William C. Harrison's 19 Motion to Remand/Motion to Dismiss</i> by William C Harrison. (Blake, Thomas) (Filed on 9/14/2007) Modified text on 9/18/2007,(counsel failed to properly link to motion) (cv, COURT STAFF). (Entered: 09/14/2007) |
| 09/14/2007 | <u>20</u> | MEMORANDUM in Support of Defendant William C. Harrison's <u>19</u> Motion to Remand or, in the Alternative, Motion to Dismiss filed by William C Harrison. (Blake, Thomas) (Filed on 9/14/2007) Modified text on 9/18/2007,(counsel failed to properly link to motion) (cv, COURT STAFF). (Entered: 09/14/2007) |
| 09/14/2007 | <u>19</u> | NOTICE OF MOTION AND MOTION to Remand or, in the Alternative, Motion to Dismiss for failure to state a claim filed by William C. Harrison (Blake, Thomas) (Filed on 9/14/2007) Modified text on 9/18/2007,(counsel failed to select multiple motions, and counsel used incorrect event, correct event is Motion, not Notice. (cv, COURT STAFF). Modified on 9/19/2007 (cv, COURT STAFF). (Entered: 09/14/2007) |
| 09/12/2007 | <u>18</u> | CLERK'S NOTICE Continuing Motion Hearing from 10/8/2007 to 12/3/2007 re [17] Motion. Motion Hearing set for 12/3/2007 09:00 AM in Courtroom 8, 4th Floor, San Jose before Hon. James Ware. (ecg, COURT STAFF) (Filed on 9/12/2007) (Entered: 09/12/2007) |
| 09/11/2007 | <u>17</u> | MOTION to Dismiss for Lack of Jurisdiction (Superior Court, County of Solano their case number FCM093334 filed by Alberta Rose Jones. Motion Hearing set for |

| | | |
|------------|----|--|
| | | 10/8/2007 09:00 AM in Courtroom 8, 4th Floor, San Jose. (cv, COURT STAFF) (Filed on 9/11/2007) (Entered: 09/11/2007) |
| 09/07/2007 | 16 | SUMMONS Returned Executed by Alberta Rose Jones. Edmund G. Brown, Jr served on 8/28/2007, answer due 9/17/2007. (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 15 | SUMMONS Returned Executed by Alberta Rose Jones. Wendy A. Getty served on 8/28/2007, answer due 9/17/2007. (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 14 | SUMMONS Returned Executed by Alberta Rose Jones. William C Harrison served on 8/28/2007, answer due 9/17/2007. (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 13 | SUMMONS Returned Executed by Alberta Rose Jones. <i>served Bret Yaple</i> (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 12 | SUMMONS Returned Executed by Alberta Rose Jones. Kathryn A Parson served on 8/28/2007, answer due 9/17/2007. (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 11 | SUMMONS Returned Executed by Alberta Rose Jones. Kelkris Associates, Inc. served on 8/28/2007, answer due 9/17/2007. (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 10 | SUMMONS Returned Executed by Alberta Rose Jones. Terry A Duree served on 8/28/2007, answer due 9/17/2007. (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 9 | CERTIFICATE OF SERVICE by Alberta Rose Jones re [8] Notice (Other) <i>addition of Donald D. Jones</i> (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 8 | NOTICE adding Donald D. Jones an unserved defendant from Superior Court of California case no.FCM093334 by Alberta Rose Jones (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 7 | CERTIFICATE OF SERVICE by Alberta Rose Jones <i>on Superior Court of California Solano addition of Doe 1: Bret A. Yaple and sworn declaration of Alberta Rose Jones</i> (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 09/07/2007 | 6 | Sworn Declaration of Patricia G. Haman re: Kelkris having no demand letters filed by Alberta Rose Jones. (cv, COURT STAFF) (Filed on 9/7/2007) (Entered: 09/10/2007) |
| 08/28/2007 | 5 | ORDER REASSIGNING CASE. Case reassigned to District Judge James Ware for all further proceedings and Magistrate Patricia V. Trumbull remains the Referral Judge in this case. Signed by the Executive Committee on 8/28/07.(srn, COURT STAFF) (Filed on 8/28/2007) Additional attachment(s) added on 8/28/2007 (srn, COURT STAFF). (Entered: 08/28/2007) |
| 08/28/2007 | 4 | CLERK'S NOTICE OF IMPENDING REASSIGNMENT. Case Management Conference set for 12/3/2007 10:00 AM Before Honorable James Ware. Case Management Statement due by 11/27/2007. (cm, COURT STAFF) (Filed on 8/28/2007) (Entered: 08/28/2007) |
| 08/27/2007 | | Summons Issued as to Edmund G. Brown, Jr. (bw, COURT STAFF) (Filed on 8/27/2007) (Entered: 08/28/2007) |
| 08/27/2007 | | Summons Issued as to Barbara Boxer, United States of America, U.S. Attorney and U.S. |

| | | |
|------------|---|---|
| | | Attorney General (bw, COURT STAFF) (Filed on 8/27/2007) (Entered: 08/28/2007) |
| 08/27/2007 | | Summons Issued as to Wendy A. Getty, Patricia Coleman, Joan Crawford, Karl Phillips, William C Harrison, Linda G. Ashcraft, Kelkris Associates, Inc., Kathryn A Parson, Terry A Duree, Michael Matthews, Moes Process Serving, Eva E Williams. (bw, COURT STAFF) (Filed on 8/27/2007) (Entered: 08/28/2007) |
| 08/27/2007 | 3 | Declination to Proceed Before a U.S. Magistrate Judge by Alberta Rose Jones. (bw, COURT STAFF) (Filed on 8/27/2007) (Entered: 08/28/2007) |
| 08/27/2007 | 2 | ADR SCHEDULING ORDER: Case Management Statement due by 11/27/2007. Case Management Conference set for 12/4/2007 02:00 PM. (bw, COURT STAFF) (Filed on 8/27/2007) Additional attachment(s) added on 8/28/2007 (cv, COURT STAFF). (Entered: 08/28/2007) |
| 08/27/2007 | 1 | NOTICE OF REMOVAL (Summons Issued); jury demand; from Superior Court of California, Solano County. Their case number is FCM93334. (Filing fee \$350 receipt number 54611001590). Filed by Alberta Rose Jones. (bw, COURT STAFF) (Filed on 8/27/2007) Modified on 8/28/2007 (cv, COURT STAFF). (Entered: 08/28/2007) |

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|-----------------------------|---------------|-------------------------|------------------|
| PACER Service Center | | | |
| Transaction Receipt | | | |
| 11/09/2007 13:07:25 | | | |
| PACER Login: | aj0140 | Client Code: | |
| Description: | Docket Report | Search Criteria: | 5:07-cv-04421-JW |
| Billable Pages: | 6 | Cost: | 0.48 |

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Kelkris Associates, Inc.,

NO. C 07-04421 JW

Plaintiff,

**ORDER DENYING DEFENDANT
JONES'S MOTIONS; REMANDING TO
THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA**

v.

Alberta Rose Jones, et al.,

Defendants.

This case was removed by Defendant Alberta Rose Jones ("Jones") from the Superior Court of the State of California. Before the Court is Jones' motions to relate cases and to stay proceedings in the Superior Court of the State of California and the United States District Court. Plaintiff Kelkris Associates, Inc., the Honorable William C. Harrison, California Attorney General Edmund G. Brown, and others have filed motions to remand this case back to the Superior Court of the State of California. (See Docket Item Nos. 19-21; 22-35.) These motions were originally noticed for a hearing on October 29, 2007; however, the Clerk reset the hearing to December 3, 2007 due to the Court's unavailability.

Jones moves to relate the above entitled action to C 04-02951 JW, C 04-02779 JW, and C 04-04811 JW. Civil Local Rule 3-12(a) provides, "An action is related to another when: (1) The actions concern substantially the same parties, property, transaction or event; and (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges." The actions cited by Jones do not

1 concern substantially the same parties, property, transactions, or events. Thus, the Court finds it
2 improper to relate this action to the cases cited by Jones.

3 With respect to Jones's motion to stay, she supports her motion with allegations that she will
4 be prejudiced if the stay is not granted. She further contends that she is filing a complaint against
5 the assigned district court judge. Reading Jones's motion in the light most favorable to her, the
6 Court finds no reason supported by law to stay this case.

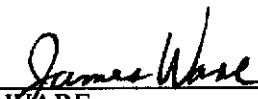
7 With respect to the motions to remand, the motions are made, in part, on the basis that the
8 Court does not have subject matter jurisdiction. Under 28 U.S.C. § 1446(c)(4), a "United States
9 district court in which [a removal] notice is filed shall examine the notice promptly," and "[i]f it
10 clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be
11 permitted, the court shall make an order for summary remand."

12 This removal stems from a debt collection case alleging that Jones owed Plaintiff \$3000 plus
13 interest for breach of contract. (Notice of Removal at 23-24, Docket Item No. 1.) The Court finds
14 that Plaintiff did not allege a cause of action under federal law in the state court complaint, that
15 Jones and Plaintiff are non-diverse, and that the amount in controversy in the state court complaint
16 was less than \$75,000.

17 Accordingly, the Court DENIES Jones's motions and REMANDS this case back to the
18 Superior Court of the State of California. The hearing on the motions to remand presently scheduled
19 for December 3, 2007 is VACATED.

20 The Clerk shall close this file.

21
22 Dated: September 21, 2007



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Ronald Hubert Sargis rsargis@hsmlaw.com
3 Thomas A. Blake tom.blake@doj.ca.gov
4 Troy Bentley Overton troy.overton@doj.ca.gov

5 Alberta Rose Jones
6 1144 Tangerine Way
7 Sunnyvale, CA 94087
8 408-449-3041

9 **Dated: September 21, 2007**

Richard W. Wieking, Clerk

10 **By: /s/ JW Chambers**
11 **Elizabeth Garcia**
12 **Courtroom Deputy**

United States District Court
For the Northern District of California